

REMARKS

1. Claim 7 stands rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. It is said that claim 7 claims an acoustic waveguide having a closed end and said acoustic port positioned between said first acoustic driver and said closed end of said acoustic waveguide. Applicant is requested to show where matter can be found as originally disclosed in specification and drawing. The claimed subject matter is shown on page 9, lines 15-17 and in FIG. 9. Port 26B is positioned between the first acoustic driver 16A and the closed end 12 of the acoustic waveguide 11. Accordingly, withdrawal of the rejection of claim 7 as failing to comply with the enablement requirement is respectfully requested.

2, 3. Claims 1-4, 6, 8, 9, 23 and 24 stand rejected under 35 U.S.C. §102(b) as being anticipated by Tanaka. Regarding claim 1, the reference is said to disclose an electroacoustic waveguide system (FIG. 4), comprising an acoustic waveguide said to be the interior of FIG. 4 and FIG. 5 having an open end said to be the left side of FIG. 5 and an interior said to be the top of interior of FIG. 4; a first acoustic driver (speaker 20) having a first radiating surface said to be the surface radiating outward of FIG. 4 and a second radiating surface said to be the surface radiating inward of FIG. 4, constructed and arranged so that the first radiating surface radiates soundwaves into free air and the second radiating surface radiates soundwaves into the acoustic waveguide so that soundwaves are radiated at the open end; and a source of opposing soundwaves in the waveguide said to be duct 10 for opposing a predetermined spectral component of the soundwaves radiated into the acoustic waveguide to oppose the acoustic radiation of the predetermined spectral component from the acoustic waveguide. It is said that the reference discloses that certain frequencies traveling through duct 10 will have opposite phase and cancel each other out; that is, oppose acoustic radiation, with specific reference to column 2, lines 10-16.

Regarding claim 2, the reference is said to further disclose an acoustic port coupling the interior with free air (left side of FIG. 5).

Regarding claim 3, the reference is said to further disclose that the predetermined spectral component comprises the opposition frequency, the spectral component frequency it is said being determined by equation 1 of column 1.

Regarding claim 4, the reference is said to further disclose said source of opposing soundwaves comprising a reflective surface inside the acoustic waveguide positioned so that soundwaves reflected from the reflective surface oppose the soundwaves radiated directly into the acoustic waveguide by the second radiating surface, it being said that soundwaves are reflected off of walls of duct 10 in FIG. 5.

Regarding claim 6, the reference is said to further disclose an acoustic port coupling the interior with the air (left side of FIG. 5).

Regarding claim 8, it is said that the reference further discloses predetermined spectral component comprises a dip frequency at which the waveguide system produces an acoustic null, absent the source of opposing soundwaves, it being said that the reference discloses that certain frequencies traveling through duct 10 will have opposite phase and cancel each other out (i.e., dip frequency) with specific reference to column 2, lines 10-16.

Regarding claim 9, the reference is said to further disclose source of opposing soundwaves comprising a reflective surface inside the acoustic waveguide positioned so that soundwaves reflected from the reflective surface oppose the soundwaves radiated directly into the acoustic waveguide by the second radiating surface, it being said soundwaves are reflected off of walls of duct 10 in FIG. 5 opposing waves radiated by speaker 20.

Regarding claim 23, the reference is said to disclose an electroacoustic waveguide system (FIG. 4) comprising an acoustic waveguide having a substantially constant cross section; and a plurality of acoustic drivers placed in the acoustic waveguide (speaker 20 and duct 10) so at least two of the acoustic drivers are substantially  $0.5L$  apart where  $L$  is the effective wavelength of the waveguide, it being said speaker 20 is substantially  $0.5L$  from duct 10 where  $L$  is the height of the waveguide enclosure 30.

Regarding claim 24, the reference is said to further disclose driver 20 is placed at a position substantially 0.25 from the closed end and the second end of the acoustic drivers (duct

10) is placed at a position substantially 0.75 from the closed end, where L is the effective length of the waveguide, it being said L is height of the waveguide enclosure 30.

This ground of rejection is respectfully traversed.

“It is well settled that anticipation under 35 U.S.C. 102 requires the presence in a single reference of all of the elements of a claimed invention.” *Ex parte Chopra*, 229 U.S.P.Q. 230, 231 (BPA&I 1985) and cases cited.

“Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983).

“This court has repeatedly stated that the defense of lack of novelty (i.e., ‘anticipation’) can only be established by a single prior art reference which discloses each and every element of the claimed invention.” *Structural Rubber Prod. Co. v. Park Rubber Co.*, 223 U.S.P.Q. 1264, 1270 (Fed. Cir. 1984), citing five prior Federal Circuit decisions since 1983 including *Connell*.

In a later analogous case the Court of Appeals for the Federal Circuit again applied this rule in reversing a denial of a motion for judgment n.o.v. after a jury finding that claims were anticipated. *Jamesbury Corp. v. Litton Industrial Prod., Inc.*, 225 U.S.P.Q. 253 (Fed. Cir. 1985).

After quoting from *Connell*, “Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim,” 225 U.S.P.Q. at 256, the court observed that the patentee accomplished a constant tight contact in a ball valve by a lip on the seal or ring which interferes with the placement of the ball. The lip protruded into the area where the ball will be placed and was thus deflected after the ball was assembled into the valve. Because of this constant pressure, the patented valve was described as providing a particularly good seal when regulating a low pressure stream. The court quoted with approval from a 1967 Court of Claims decision adopting the opinion of then Commissioner and later Judge Donald E. Lane:

[T]he term “engaging the ball” recited in claims 7 and 8 means that the lip contacts the ball with sufficient force to provide a fluid tight seal. \*\*\* The Saunders flange or lip only sealingly engages the ball 1 on the upstream side when the fluid pressure forces the lip against the ball and never sealingly engages the ball on the downstream side because there is no fluid pressure there to force

the lip against the ball. The Saunders sealing ring provides a compression type of seal which depends upon the ball pressing into the material of the ring. \*\*\* The seal of Saunders depends primarily on the contact between the ball and the body of the sealing ring, and the flange or lip sealingly contacts the ball on the upstream side when the fluid pressure increases. 225 U.S.P.Q. at 258.

Relying on *Jamesbury*, the ITC said, "Anticipation requires looking at a reference, and comparing the disclosure of the reference with the claims of the patent in suit. A claimed device is anticipated if a single prior art reference discloses all the elements of the claimed invention as arranged in the claim." *In re Certain Floppy Disk Drives and Components Thereof*, 227 U.S.P.Q. 982, 985 (U.S. ITC 1985).

Claims 1-4, 6, 8 and 9 have been amended to call for the driver connected to the waveguide, a feature absent from the reference. Claims 23 and 24 call for a plurality of acoustic drivers placed in the acoustical waveguide, a feature absent from the reference.

Accordingly, withdrawal of the rejection of claims 1-4, 6, 8, 9, 23 and 24 is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the reference regarded as corresponding to each limitation in these claims, particularly quoting verbatim the language in the reference regarded as corresponding to drivers connected to or in an acoustic waveguide.

4. Claims 14-16, 20 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Yanagawa. Regarding claim 14, the reference is said to disclose an electroacoustic waveguide (structure of FIG. 3A) comprising an acoustic waveguide having an open end (114 and 117) and a closed end (ends connecting speakers 111 and 112 to tunnels 118 and 119) and a wall connecting said open end and said closed end (structure of 113); a plurality of acoustic drivers (speakers 111 and 112), each having a first radiating surface and a second radiating surface (half radiating into air 115 and 116) and half radiating into tunnels 118 and 119); wherein a first of said acoustic drivers (speaker 111) is placed in said wall of said acoustic waveguide so that said first radiating surface of said first acoustic driver radiates into said acoustic waveguide (half radiating into tunnel 118) and said second radiating surface of said first acoustic driver radiates into the air.

Regarding claim 15, the reference is said to further disclose a second of said acoustic drivers positioned in said closed end of said acoustic waveguide (speaker 112 position at closed end of tunnel 119).

Regarding claim 16, the reference is said to further disclose a second of said plurality of acoustic drivers placed in said wall of said acoustic waveguide so that said first radiating surface of said second driver radiates into said acoustic waveguide (half radiating into tunnel 119) and said second radiating surface of said second acoustic driver radiates into free air.

Regarding claim 20, the reference is said to disclose an electroacoustic waveguide system (FIG. 3A) comprising: an acoustic waveguide (113) having an open end (114) and a closed end (end near speaker 111 connecting tunnel 118) and an effective midpoint (between speakers 111 and 112); a plurality of acoustic drivers (speakers 111 and 112); and an acoustic compliance acoustically coupling the first of said plurality of acoustic drivers and said acoustic waveguide (it is said to be inherent that air would provide an acoustic compliance for coupling an acoustic driver to a waveguide).

Regarding claim 21, the reference is said to further disclose a first of said plurality of acoustic drivers (speaker 111) positioned at approximately effective midpoint.

These grounds of rejection are respectfully traversed. Claim 14 and the claims dependent thereon call for an acoustic waveguide having an open end and a closed end and a wall connecting the open end and the closed end, and a plurality of acoustic drivers each having a first radiating surface and a second radiating surface wherein a first of the acoustic drivers is placed in the wall of the acoustic waveguide so that the first radiating surface of the first acoustic driver radiates into the acoustic waveguide and the second radiating surface of the first acoustic driver radiates into free air. The reference fails to disclose an acoustic waveguide having an open end and a closed end and a wall connecting the open end and the closed end with a plurality of acoustic drivers wherein a first of the acoustic drivers is placed in the wall of the acoustic waveguide so that the first radiating surface of the first acoustic driver radiates into the acoustic waveguide and the second radiating surface of the first acoustic driver radiates into the air. Speakers 111 and 112 are at closed ends of respective waveguides. Neither is located in the wall

of the acoustic waveguide so that the first radiating surface of the first acoustic driver radiates into the acoustic waveguide and the second radiating surface of the first acoustic driver radiates into free air.

Claim 20 calls for an acoustic waveguide having an open end and a closed end and an effective midpoint, a plurality of acoustic drivers and an acoustic compliance acoustically coupling the first of the plurality of acoustic drivers and the acoustic waveguide. Each of the waveguides has a loudspeaker at its closed end and does not have a plurality of acoustic drivers, let alone an acoustic compliance acoustically coupling a first of the plurality of acoustic drivers and the acoustic waveguide. Nor does the reference disclose a first of the plurality of acoustic drivers positioned at approximately the effective midpoint.

Accordingly, withdrawal of the rejection of claims 14-16, 20 and 21 as anticipated by Yanagawa is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim language in the reference regarded as corresponding to each limitation in each rejected claim.

5. Claims 18 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by Takayama and have been canceled without prejudice.

6. Claims 11 and 25-28 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hersh. Regarding claim 11, the reference is said to disclose an acoustic waveguide system (FIG. 6) comprising an acoustic waveguide (structure of FIG. 6) having an open end (right end) and a closed end (axial fan end) and further having an effective length, an acoustic driver (Helmholtz resonators) for radiating soundwaves into the waveguide, positioning the acoustic waveguide so that there is an acoustic null at the open end at a dip frequency (the reference is said to disclose Helmholtz resonator arrays drive at an appropriate amplitude and phase for cancellation of a node (i.e., cause an acoustic null and prevent frequency from reaching the open end) (column 2, lines 30-39).

Regarding claim 25, the reference is said to disclose a method for operating an acoustic waveguide (FIG. 6) having an open end (right end) and a closed end (axial fan end) and a wall connecting the open end and the closed end (walls connecting axial fan to flow straightener),

comprising radiating acoustic energy into the acoustic waveguide (rotor axial fan), and significantly opposing acoustic radiation at a predetermined dip frequency (the reference is said to disclose Helmholtz resonator arrays drive at an appropriate amplitude in phase) (column 2, lines 30-39).

Regarding claim 26, the reference is said to further disclose providing opposing acoustic radiation comprises reflecting the radiated acoustic energy off an acoustically reflective surface inside the acoustic waveguide so that the reflected energy opposes the acoustic energy radiated into the waveguide (FIG. 6 is said to disclose the waveguide consisting of all which would reflect acoustic energy inside acoustic waveguide).

Regarding claim 28, the reference is said to further disclose providing opposing acoustic radiation comprising radiating by a second acoustic driver, the opposing acoustic energy into the acoustic waveguide (the reference is said to disclose Helmholtz resonators (FIG. 6) (i.e., second driver) arranged drive at an appropriate amplitude and phase for cancellation of a node (column 2, lines 30-39).

This ground of rejection is respectfully traversed. Claim 11 calls for an acoustic driver for radiating soundwaves into said waveguide positioned in said acoustic waveguide so that there is an acoustic null at said open end at a dip frequency. The reference does not disclose an acoustic driver for radiating soundwaves into the waveguide positioned in the acoustic waveguide so that there is an acoustic null at the open end at a dip frequency. Claims 25-28 call for the opposition occurring at a dip frequency. The claimed dip frequency is defined on page 3, lines 4-10 of the specification and is not disclosed in the reference.

There is no disclosure of an acoustically reflective surface inside the acoustic waveguide in the reference, let alone a disclosure that the reflected acoustic energy from the nonexistent surface opposes the acoustic energy radiated into the waveguide as called for by claim 27.

Accordingly, withdrawal of the rejection of claims 11 and 25-28 is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the reference regarded as corresponding to each limitation in claims 11 and 25-28.

7, 8. Claim 5 stands rejected under 35 U.S.C. §103 as being unpatentable over Tanaka as a primary reference as applied to claim 1 in view of Hersh as a secondary reference. The primary reference is said to disclose a system as stated apropos of claim 1 above, but does not disclose a source of opposing soundwaves comprising a second acoustic driver arranged and constructed to radiate soundwaves into the acoustic waveguide. The secondary reference is said to disclose an acoustic waveguide which includes acoustic drivers (Helmholtz resonators) used to produce an appropriate amplitude and phase to cancel the component of a single mode in order to reduce an unwanted noise component (column 4, lines 36-37, 44-46, and 8-10). Therefore, it is said it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second driver to produce an opposing soundwave to cancel an unwanted frequency of sound.

This ground of rejection is respectfully traversed.

"The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

"Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, '[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.'" *In re Laskowski*, 10 U.S.P.Q. 2d 1397, 1398 (Fed. Cir. 1989).

"The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination." *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984).

"Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined *only* if there is some suggestion or

incentive to do so." *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984) (emphasis in original, footnotes omitted).

"The critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. [citing *Lindemann* with emphasis added.]'" *Fromson v. Advance Offset Plate, Inc.*, 225 U.S.P.Q. 26, 31 (Fed. Cir. 1985).

As the Federal Circuit Court of Appeals said in *In re Dembicza*k, 175 F.3d 994, 999 (Fed. Cir. 1999):

Close adherence to this methodology is especially important of less technologically complex inventions, where the very ease with which the invention can be understood may prompt one 'to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.'

And in *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1316 (Fed. Cir. 2000), the Court said:

[I]dentification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. *See id.* [*Dembicza*k]. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant. *See In re Dance*, 160 F.3d 1339, 1343, 48 U.S.P.Q.2d 1635, 1637 (Fed. Cir. 1998), *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference. *See B. F. Goodrich Co. v. Aircraft Braking Sys. Corp.*, 72 F.3d 1577, 1582, 37 U.S.P.Q.2d 1314, 1318 (Fed. Cir. 1996).

We have shown above that it is impossible to read claim 1 as amended on the primary reference. Therefore, it is impossible to combine the primary and secondary references to meet the terms of claim 5.

"Moreover, we observe that even if these references were combined in the manner proposed by the examiner, that which is set forth in appellant's claims . . . would not result." *Ex parte Bogar*, slip op. p.7 (BPA&I Appeal No. 87-2462, October 27, 1989). "Even if we were to agree with the examiner that it would have been obvious to combine the reference teachings in the manner proposed, the resulting package still would not comprise zipper closure material that

terminates short of the end of the one edge of the product containing area, as now claimed." *Ex parte Schwarz*, slip op. p.5 (BPA&I Appeal No. 92-2629 October 28, 1992). "Although we find nothing before us indicating why it would be desired to combine the references in the manner urged by the examiner, it is clear to us that such a modification by itself would not result in that which is set forth in the claims." *Ex Parte Kusko*, 215 U.S.P.Q. 972, 974 (BPA&I 1981).

That it is impossible to combine the references to meet the limitations of claim 5 is reason enough for withdrawing the rejection of this claim. Nothing in the references suggests the desirability of combining what is there disclosed to meet the terms of this claim. Accordingly, withdrawal of the rejection of claim 5 as unpatentable over the primary and secondary references is respectfully requested. Should this ground of rejection be repeated, the Examiner is respectfully requested to quote verbatim the language in the references regarded as corresponding to each limitation in claim 5, and quote verbatim the language in the references regarded as suggesting the desirability of combining what is there disclosed to meet the terms of claim 5.

9. Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Tanaka as a primary reference as said to be applied to claim 8 in view of Hersh as a secondary reference. The primary reference is said to disclose a system as stated apropos of claim 8, but does not disclose a source of opposing soundwaves comprising a second acoustic driver arranged and constructed to radiate soundwaves into the acoustic waveguide. The secondary reference is said to disclose an acoustic waveguide which includes acoustic drivers (Helmholtz resonators) used to produce an appropriate amplitude and phase into the waveguide to cancel the component of a single mode in order to reduce an unwanted noise component (column 4, lines 36-37, 44-46 and 8-10). Therefore, it is said it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second driver to produce an opposing soundwave to cancel an unwanted frequency of sound.

This ground of rejection is respectfully traversed. We have shown above that the primary reference fails to disclose each and every limitation in claim 8 arranged as in the claim. It is therefore impossible to combine the primary and secondary references to meet the terms of claim

10. That is reason enough for withdrawing the rejection of claim 10 on the primary and secondary references. Furthermore, these references do not suggest the desirability of combining what is there disclosed to meet the terms of claim 10.

Accordingly, withdrawal of the rejection of claim 10 as unpatentable over the primary and secondary references is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the references regarded as corresponding to each limitation in claim 10 and quote verbatim the language in the references regarded as suggesting the desirability of combining what is there disclosed to meet the terms of these claims.

10. Claims 12 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hersh as a primary reference as applied to claim 11 in view of Koyano as a secondary reference. Regarding claim 12, the primary reference is said to disclose a system as stated above apropos of claim 11 but does not disclose the driver being substantially  $0.25L$  from the closed end where  $L$  is the effective length of the waveguide. The secondary reference is said to disclose a waveguide (FIG. 1A) with a speaker 20 positioned substantially  $0.25L$  from the closed end (wall 16) of the guide. Therefore, it is said it would have been obvious to one of ordinary skill in the art at the time the invention was made that a driver could be placed at substantially  $0.25L$  from the closed end of a waveguide.

Regarding claim 13, the secondary reference is said to further disclose in FIG. 4 a sectional view of a bass reflex speaker. It is said the speaker would inherently internally reflect soundwaves within the enclosure including the frequencies at said dip frequency.

This ground of rejection is respectfully traversed. We have shown above that the primary reference does not disclose each and every limitation in claim 11 arranged as in the claim. Therefore, it would be impossible to combine the primary and secondary references to meet the terms of claim 12. That it is impossible to combine the references to meet the terms of the rejected claims is reason enough for withdrawing the rejection of claims 12 and 13. Furthermore, nothing in the references suggest the desirability of combining what is there disclosed to meet the terms of claims 12 and 13. Accordingly, withdrawal of the rejection of

claims 12 and 13 as unpatentable over the primary and secondary references is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the references regarded as corresponding to each limitation in these claims and quote verbatim the language in the references regarded as suggesting the desirability of combining what is there disclosed to meet the terms of these claims.

11. Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yanagawa as applied to claim 4 as a primary reference in view of Hersh as a secondary reference. The primary reference is said to disclose a system apropos of claim 14. The primary reference does not disclose acoustic drivers producing a null at the open end of a waveguide. The secondary reference is said to disclose a waveguide including a plurality of drivers (Helmholtz resonators) configured to cancel the cosine component of a single mode (i.e., null frequency) (col. 4, lines 44-46). The secondary reference is said to teach that this method can cancel out unwanted frequencies (col. 2, lines 20-24). Therefore, it is said it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a plurality of drivers to cancel out an unwanted frequency for a more customized audio output.

This ground of rejection is respectfully traversed. We have shown above that the primary reference does not disclose each and every limitation in claim 14 arranged as in the claim. Therefore, it would be impossible to combine the primary and secondary references to meet the terms of claim 17. That it is impossible to combine the references to meet the terms of claim 17 is reason enough for withdrawing the rejection of it. Furthermore, nothing in the references suggest the desirability of combining what is there disclosed to meet the limitations of claim 17. Accordingly, withdrawal of the rejection of claim 17 as unpatentable over the primary and secondary references is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the references regarded as corresponding to each limitation in claim 17 and quote verbatim the language in the references regarded as suggesting the desirability of combining what is there disclosed to meet the terms of claim 17.

12. Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yamagawa as a primary reference as applied to claim 20 and further in view of Kanaka as a secondary reference. The primary reference is said to disclose a system as stated apropos of claim 20 but does not disclose the distance of the drivers being substantially 0.25 L and 0.75 L from the closed end where L is the effective length of the waveguide. The secondary reference is said to disclose to waveguide system (FIG. 4) with a driver 20 placed at a position substantially 0.25 from said closed end (top of enclosure 30) and a second of said acoustic drivers (duct 10) is placed at a position substantially 0.75 from said closed end, where L is the effective length of the waveguide (L is height of the waveguide enclosure 30). Therefore, it is said it would have been obvious to one of ordinary skill in the art at the time the invention was made that two drivers could have been placed at substantially 0.25 L and 0.75 L from the closed end of the waveguide in order to produce an appropriate acoustic response such as frequency cancellation (col. 2, lines 14-15).

This ground of rejection is respectfully traversed. We have shown above that the primary reference does not disclose each and every limitation in claim 20 arranged as in the claim. Therefore, it would be impossible to combine the primary and secondary references to meet the terms of claim 22. That it is impossible to combine the references to meet the terms of claim 22 is reason enough for withdrawing the rejection of it. Furthermore, nothing in the references suggests the desirability of combining what is there disclosed to meet the terms of claim 22. Accordingly, withdrawal of the rejection of claim 22 as unpatentable over the primary and secondary references is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the references regarded as corresponding to each limitation in claim 22 and quote verbatim the language in the references regarded as suggesting the desirability of combining what is there disclosed to meet the terms of claim 22.

In view of the foregoing cancellations, amendment, and the inability of the prior art, alone or in combination, to anticipate, suggest or make obvious the subject matter as a whole of the invention disclosed and now claimed in this application, all the claims are submitted to be in

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a condition for allowance, and notice thereof is respectfully requested. Should the Examiner believe this application is not in a condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at 617-521-7014 to discuss what additional steps the Examiner believes are necessary to place the application in a condition for allowance.

Enclosed is a \$110 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050, Order No. 02103-369001.

Respectfully submitted,

FISH & RICHARDSON P.C.

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